

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
JAMES ABATE, ANDREW BANG and D. WAYNE
ROBINSON

Plaintiffs,

-against-

FIFTH THIRD BANK

Defendant.

ECF CASE (VSB)

13 CV 9078

**CASE MANAGEMENT PLAN
AND SCHEDULING ORDER**

Broderick, V.

USDC SDNY
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DATE FILED: 3/13/14

1. All parties do not consent to conducting all further proceedings before a United States Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences.
2. The parties have not engaged in settlement discussions since the Complaint was filed.
3. This case is to be tried to a jury.
4. No additional parties may be joined after 3/28/2014 without leave of the Court.
5. No additional causes of action or defenses may be asserted after the date set by the Fed. R. Civ. P. without the leave of Court.
6. Initial disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure shall be completed no later than 3/21/2014.
7. All fact discovery to be completed no later than 180 days after resolution of Defendant's planned motion to dismiss (the "MTD").
8. Discovery:
 - a) Initial requests for production of documents shall be served by 20 days after resolution of the MTD.
 - b) Interrogatories shall be served by 20 days after resolution of the MTD.
 - c) Depositions shall be complete no later than 180 days after resolution of the MTD.

- i. Absent an agreement between the parties or an order from the Court, depositions are not to be held until all parties have responded to initial requests for document production.
 - ii. There is no priority for depositions by reason of a party's status as a plaintiff or a defendant.
 - iii. Absent an agreement between the parties or an order from the Court, nonparty depositions shall follow initial party depositions.
- d) Requests for admissions shall be served no later than 30 days prior to conclusion of all discovery.
9. All expert discovery, including disclosures, reports, production of underlying documents, and depositions shall be completed by 60 days after completion of fact discovery.
10. All discovery shall be completed no later than 240 days after resolution of the MTD.
11. The Court will conduct a post-discovery conference on _____ at _____. [*To be completed by the Court.*] No later than two weeks in advance of the conference, the parties are to submit a joint letter updating the Court on the status of the case, including but not limited to whether either party intends to file a dispositive motion and what efforts the parties have made to settle the action.
 - a) If either party contemplates filing a dispositive motion, the post-discovery conference will function as a pre-motion conference required by Rule 4.A of the Court's Individual Rules and Practices. Pre-motion letters are to be submitted by _____. [*To be completed by the Court.*]
 - b) If neither party contemplates a dispositive motion, the post-discovery conference will function as a pretrial conference at which a trial date will be set.
12. Unless otherwise ordered by the Court, the joint pretrial order and additional submissions required by Rule 6 of the Court's Individual Rules and Practices shall be due 30 days from the close of discovery, or if any dispositive motion is filed, 30 days from the Court's decision on such motion. This case shall be trial ready

60 days from the close of discovery or from the Court's decision on any dispositive motion filed after the close of discovery.

13. Defendant does not propose alternative dispute resolution at this time. Plaintiff is open to all means of alternate dispute resolution.
14. The parties have conferred and their present best estimate of the length of trial is one week.

SO ORDERED:

Wesley Brader 3/13/14
United States District Judge

Submitted March 13, 2014